



950392-PINE

State of New Jersey

THE PINELANDS COMMISSION

PO Box 7

NEW LISBON NJ 08064

(609) 894-7300

April 21, 2003

JAMES E. MCGREEVEY
Governor

New Jersey Department of Transportation
Attn: Nick Caiazza, Project Manager
1035 Parkway Avenue
P.O. Box 600
Trenton, New Jersey 08625

Please Always Refer To
This Application Number

Re: Application #02-0594.01
Block 116, Lot
Cumberland Pond Dam, Rt. 49
Maurice River Township

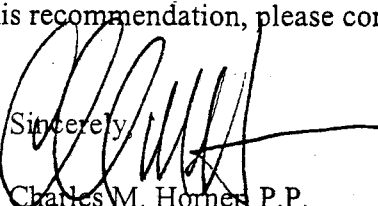
Dear Mr. Caiazza:

Enclosed is a copy of a Report on an Application for Public Development regarding your application for replacement of a water control structure and improvements to Cumberland Pond Dam. I am recommending the application for approval with conditions.

Any interested party may appeal the recommendation pursuant to the process described in the Report. If no appeal is received within 18 days of this letter, the Pinelands Commission will act on this application at its meeting on May 9, 2003.

If you have any questions regarding this recommendation, please contact the project review office for more information.

Sincerely,


Charles M. Hornes, P.P.
Acting Assistant Director

cc: Secretary, Maurice River Township Planning Board
Maurice River Township Construction Code Official
Maurice River Township Environmental Commission
Gary L. Johnson, Taylor, Wiseman, Taylor
Bill Romaine, Amy S. Greene Environmental Consultants, Inc.
F:\BILL\WPDOCS\coverletter\59401a21.wpd



<http://www.state.nj.us/pinelands/>
E-mail: Info@njpinelands.state.nj.gov

The Pinelands—Our Country's First National Reserve and a U.S. Biosphere Reserve

New Jersey Is An Equal Opportunity Employer • Printed on Recycled and Recyclable Paper



State of New Jersey

THE PINELANDS COMMISSION

PO Box 7

NEW LISBON NJ 08064

(609) 894-7300

AMES E. MCGREEVEY
Governor

**REPORT ON AN APPLICATION FOR
PUBLIC DEVELOPMENT AND CERTIFICATE OF APPROPRIATENESS**

April 21, 2003

Applicant: New Jersey Department of Transportation
Attn: Nick Caiazza, Project Manager
1035 Parkway Avenue
P.O. Box 600
Trenton, New Jersey 08625

Application #: 02-0594.01

Location: Cumberland Pond Dam, Route 49
Block 116, Lots 11 and 39
Block 120, Lots 2 and 5
Maurice River Township

FINDINGS OF FACT

This application is for the replacement of a water control structure and dam improvements at the Cumberland Pond Dam located on the above referenced 2,292 acre parcel in Maurice River Township. Cumberland Pond overflows the spillway and discharges into the Manumuskin River. The parcel is partially located in a Pinelands Forest Area (1283.65 acres) and partially in a Pinelands Village (1.55 acres) A portion of Block 120, Lot 2 is not located in the Pinelands Area. The existing dam structure forms a bridge on which is located Rt 49.

The purpose of the project is to bring the Cumberland Pond Dam into compliance with NJDEP Dam Safety Standards. The existing timber spillway will be replaced with a circular concrete spillway. The normal lake elevation will be maintained during construction.

A sluice gate for low level water release and a fish ladder will be incorporated into the dam. Additionally, this application proposes embankment protection and resurfacing of an existing dirt parking area and boat ramp with an open cell concrete map to prevent ongoing erosion. Existing guide rails will be replaced and extended to improve safety. A bituminous concrete protective surface



along the base of the guide rails and roadway edge will be installed to prevent undermining of the guide rails during storms. A rip-rap stone channel at the base of the spillway will be installed to prevent scouring and erosion. Removal of trees and stumps, regrading and slope stabilization along a portion the dam embankment is also proposed to provide structural stability to the dam by preventing tree roots from forming channels through which the impounded water could flow.

The project area has been inspected by two members of the Commission's staff. In addition, the appropriate resource capability maps and data available to the Commission staff have been reviewed.

There are freshwater wetlands on the parcel. The replacement of the water control structure will result in the disturbance of 2,248 square feet of wetlands (0.0156 acres). The tree clearing and regrading on a portion of the bank of the dam will result in the disturbance of 479 square feet of wetlands (0.011 acres).

The replacement of the water control structure and associated dam improvements are located on Cumberland Pond Dam. The applicant has demonstrated that there is no feasible alternative to the proposed development that does not involve development in wetlands or wetland buffers of that will result in less significant adverse impact on wetlands. The proposed development is a modification of an existing facility. The proposed development will not result in a substantial impairment of the resources of the Pinelands. With the conditions recommended below, all practical measures are being taken to mitigate the impacts on the wetlands. The applicant has demonstrated that the need for the dam rehabilitation overrides the importance of protecting the wetlands.

The applicant has provided Information identifying the locations of threatened and endangered species in the immediate vicinity of the project. Within this area, the applicant identified the presence of the following animal and plant species:

- Northern pine snake (*Pituophis melandoleucus*), a threatened species;
- Pine Barrens treefrog (*Hyla andersonii*), an endangered species;
- Barred owl (*Strix varia*), a threatened species;
- Coopers hawk (*Accipiter cooperii*); and
- Osprey (*Pandion halieatus*);
- Bald Eagle (*Haliaeetus leucocephalus*);
- Swamp pink (*Helonias bullata*), an endangered species;
- Curly grass fern (*Schizaea pusilla*);
- Floating heart (*Nymphoides cordata*);
- Knieskern's beaked rush (*Rhynchospora knieskernii*);
- Pine Barren reedgrass (*Calamovilfa brevopilis*), and
- Barratt's sedge (*Carex barrattii*).

The normal water level of Cumberland Pond will be maintained throughout construction. Based on this factor, the limited area of disturbance and the location of the proposed development,

the proposed development will not adversely impact any populations of threatened or endangered plants or cause an irreversible impact on the habitat that is critical to the survival of any threatened or endangered animals.

A cultural resource survey was undertaken because the dam was originally built to provide hydropower for the Cumberland Furnace (circa 1785). The cultural resource survey identified deeply buried remains likely associated with the early timber dam structure for the furnace. Because of the location of these remains, which are buried beneath the current causeway, the consultants recommended archaeological "monitoring" during the course of construction (i.e., a technique whereby operations are closely monitored by a professional archaeologist who is authorized to delay construction when potentially significant resources come to light so that they may be properly recorded). The New Jersey Historic Preservation Office (NJDEP) concurred with this recommendation.

The replacement of the water control structure will have an unavoidable impact upon archaeological resources which have been determined to be significant according to the criteria of N.J.A.C. 7:50-6.154(b) for their association with the Cumberland Furnace (which operated around 1785-1840). The Commission staff has determined that these resources, which constitute a portion of the original dam at the site, are eligible for Pinelands Designation and the Pinelands Commission must issue a Certificate of Appropriateness before the development may be approved (N.J.A.C. 7:50-6.156(a)2).

With the conditions recommended below, the proposed development will be consistent with all the management standards contained in Subchapter 6 of the Comprehensive Management Plan.

The applicant has provided the requisite public notice. The Pinelands Commission has not received any public comments concerning the application.

CONCLUSION

The provisions of N.J.A.C. 7:50-6.156(a)1 and 4 require that a Certificate of Appropriateness be issued before the proposed replacement of the water control structure may occur. This Certificate identifies the treatment that will be required for the resource from among the following three alternatives:

- preservation in place if possible;
- preservation at another location, if preservation in place is not possible, or
- recordation, if neither preservation in place nor at another location is possible.

Because of their location beneath the existing dam/causeway, neither preservation in place nor at another location is feasible. Therefore, recordation of the resources according to the standards

The proposed improvements are located in a Pinelands Village. The proposed replacement of the water control structure and dam improvements is a permitted use in a Pinelands Village (N.J.A.C. 7:50-5.27(a)). If the following conditions are imposed, the proposed water control structure reconstruction and dam improvements will be consistent with the management standards contained in Subchapter 6 of the Pinelands Comprehensive Management Plan.

As the proposed water control structure replacement and dam improvements conform to the standards set forth in N.J.A.C. 7:50-4.57, it is recommended that the Pinelands Commission approve the proposed activities with the following conditions:

1. Except as modified by the below conditions, the proposed development shall adhere to the plans, consisting of 44 sheets, prepared by Taylor-Wiseman-Taylor, dated January 31, 2003.
2. Appropriate measures shall be taken during construction to preclude sedimentation from entering wetlands.
3. Disposal of any construction debris or excess fill in the Pinelands Area may only occur at a licensed facility authorized by the Pinelands Commission.
4. Staging areas shall not be located in wetlands.
5. Authorization pursuant to the Freshwater Wetlands Act Rules shall be obtained prior to disturbing any wetlands.
6. Copies of the recordation of the archaeological resources shall be submitted to the Pinelands Commission.

APPEAL

Any interested person may appeal the Executive Director's determination on this application to the Commission. The appeal must be made within 18 days of the date of this letter by giving notice, by Certified mail, of the appeal to the Pinelands Commission. Said notice shall include:

1. the name and address of the person requesting the appeal;
2. the application number;
3. a brief statement of the basis for the appeal; and
4. a certificate of service, (a notarized statement), indicating that service of the notice

has been made by Certified mail, on:

- a. the applicant (unless the applicant is requesting the appeal);
- b. Secretary, Maurice River Township Planning Board;
- c. Maurice River Township Environmental Commission.

Any appeal will be referred to the Office of Administrative Law for a hearing. If no appeal is received within 18 days of this letter, the Pinelands Commission will act on this application at its meeting on May 9, 2003. At this meeting, the Commission may either approve the determination of the Executive Director or refer the application to the Office of Administrative Law for a Hearing.

Recommended for Approval by: _____

Charles M. Horner, P.P., Acting Assistant Director

WFH

F:\BILL\WPDOCS\PUBLICS\59401a21.wpd

TITLE: Approving With Conditions an Application for a Public Development and Certificate of Appropriateness (Application Number 02-0594.01)

Commissioner Kowalski moves and Commissioner Ficcaglia seconds the motion that:

WHEREAS, the Pinelands Commission has reviewed the Findings of Fact, Conclusion and the recommendation of the Executive Director, as prepared by the Assistant Director for Development Review, that the following application for Public Development and a Certificate of Appropriateness be approved with conditions:

02-0594.01 NJ DEPT. OF TRANSPORTATION, Maurice River Township, Forest Area and Pinelands Village, replacement of a water control structure and dam improvements

WHEREAS, no request for a hearing before the Office of Administrative Law concerning the Executive Director's recommendation has been received; and

WHEREAS, the Pinelands Commission hereby adopts the Findings of Fact and Conclusion of the Executive Director; and

WHEREAS, pursuant to N.J.S.A. 13A-5h, no action authorized by the Commission shall have force or effect until ten (10) days, Saturdays, Sundays and public holidays excepted, after a copy of the minutes of the meeting of the Commission has been delivered to the Governor for review, unless prior to expiration of the review period the Governor shall approve same, in which case the action shall become effective upon such approval; and

WHEREAS, the Pinelands Commission hereby determines that the proposed Public Development and Certificate of Appropriateness conforms to both the standards for approving an application for public development set forth in N.J.A.C. 7:50-4.57 and the standards for approving a Certificate of Appropriateness set forth in N.J.A.C. 7:50-6.156 if the conditions recommended by the Executive Director are imposed.

NOW, THEREFORE BE IT RESOLVED that the following application for Public Development and Certificate of Appropriateness is hereby **approved** subject to the conditions recommended by the Executive Director:

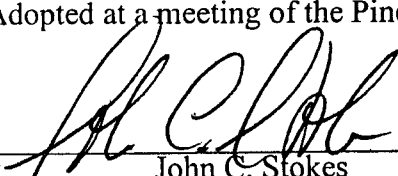
02-0594.01 NJ DEPT. OF TRANSPORTATION, Maurice River Township, Forest Area and Pinelands Village, replacement of a water control structure and dam improvements

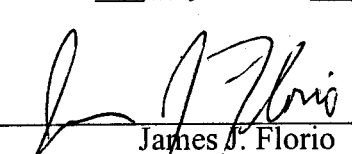
Record of Commission Votes

AYE	NAY	NP	ABS	AYE	NAY	NP	ABS	AYE	NAY	NP	ABS
Ashmun	✓			Hagaman	✓			Tomasello	✓		
Avery	✓			Kowalski	✓			Westergaard	✓		
Brown			✓	Lee	✓			Wilson	✓		
Campbell			✓	Lloyd	✓			Wuillermine			✓
Ficcaglia	✓			McIntosh			✓	Florio	✓		

Adopted at a meeting of the Pinelands Commission

Date: May 9, 2003


John C. Stokes
Executive Director


James J. Florio
Chairman